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## **FiFa COLLECTION PROCEDURES**

### **THE LEVY**

The following information is provided by the Columbia County Marshal's Department to assist those citizens who have obtained a Fieri Facias (FiFa) and would like assistance with collection. This document is not a legal opinion. Our intent is to provide you with adequate information to allow you to make an informed decision regarding the collection of a FiFa. This information is not applicable to any other jurisdiction. You should consult your attorney or the appropriate Georgia Code Section for more detailed information.

You, the plaintiff, may file a garnishment on the defendant's employer and/or bank account while simultaneously attempting a levy under a FiFa. If you are not familiar with the defendant's place of employment, bank account(s), or property owned, you may serve the defendant with post-judgment interrogatories. Interrogatories are a set of questions whereby the defendant must list any assets and file that answer back with the court.

Upon receiving your original FiFa (we **must** have the original document), a deputy will contact you to get any relevant information that he/she may need; therefore, it is important that we have your current contact information when you apply for the FiFa. Next, the deputy will seek out the defendant to make a "money demand." The defendant may make a full or partial payment to you, the plaintiff; however, if the defendant wishes to pay the money directly to the court, he/she must pay the total amount. No partial payments will be accepted by the court. Any monies tendered to the court to satisfy FiFas will be disbursed to you, by the court. Please keep in mind that Magistrate Court disburses checks once a month, so there will be some lag time in receiving your money.

If you, the plaintiff, request the Marshal's Department to levy on the defendant's property, **YOU MUST:**

1. Locate personal property of the defendant that is not subject to any prior, outstanding liens.
2. Designate the property upon which you want to levy, **IN WRITING**, with a request that the Marshal's Department levy on that item (or items). In addition, you will need to notify us in writing the exact location of the item(s).
3. You, the plaintiff, must be careful not to over-levy, as this can open you up to litigation. The levying officer can explain this in further detail.
4. Should you want to levy on a motor vehicle (or anything that would be registered through the tag office), you must provide us with a copy of a report from the Department of Revenue, showing where the defendant(s) has sole interest in the vehicle, trailer, etc. This report can be obtained by submitting the proper paperwork to the Department of Revenue. For more information, visit the following website:

[http://motor.etax.dor.ga.gov/forms/pdf/motor/MV\\_Motor\\_Vehicle\\_Data\\_Request\\_Form\\_MV20.pdf](http://motor.etax.dor.ga.gov/forms/pdf/motor/MV_Motor_Vehicle_Data_Request_Form_MV20.pdf).

5. If you are interested in levying on any other type of personal property, you must conduct a UCC (Uniform Commercial Code) search and present your findings to the Marshal's Department. This search can be conducted in the Clerk of Court's office, here at the Justice Center. At this time, they only charge for printing the reports. For more information on UCC searches, visit the following website: [http://www.gsccca.org/Search/UCC\\_search/](http://www.gsccca.org/Search/UCC_search/).
6. While all of the above research must take place prior to the actual levy, please note that the defendant still has the right to point out what it is he/she wants us to levy on. It is only after the defendant fails to specify sufficient property to satisfy the judgment that you, the plaintiff, will be able to direct us as to what to levy on.
7. You, as the plaintiff, will be required to pay all costs up front, when a levy is made. The costs could include:
  - a. Levy fee
  - b. Wrecker and storage (if levy is on a vehicle)
  - c. Rental of storage space and transportation of items (if levy is on personal property, other than a vehicle)
  - d. Advertisement of Marshal's Sale
8. The following three elements must be present at the time of the levy:
  - a. The defendant
  - b. The plaintiff or his agent
  - c. A marshal with the original FiFa

After an item has been levied upon, preparations will be made to sell the item at a Marshal's Sale. These sales take place on the first Tuesday of any given month, between the hours of 10:00AM and 4:00PM, at the courthouse, in Appling. Prior to the sale, we must run a legal advertisement in the Columbia County News Times for four consecutive weeks. Please keep in mind that the cost of this advertisement is a cost that you, the plaintiff, must bear (at least initially). During this time, the item will remain in storage. Again, you may be responsible for paying the towing/storage fees, upfront, pending the sale.

Once the sale is completed by a member of the Marshal's Department, a "knockdown" of the judgment will be performed. This is where the deputy who ran the sale will calculate the amount netted from the sale. This calculation involves reimbursing expenditures made by you, the plaintiff, for towing, storage, advertising, etc., in your quest to collect the amount of your judgment. This reimbursement only includes actual and reasonable expenses that have been occurred. The deputy that is handling this process can give you further details. The net amount received will be applied to the judgment. Any money left over, after satisfying the judgment, will be returned to the defendant by the Magistrate Court.